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COMMISSION ON HUMAN RIGHTS

Subcommission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Indigenous Populations
Fifteenth session
28 July-1 August 1997

PROVISIONAL AGENDA

1. Election of officers.

2. Adoption of the agenda.

3. Organization of the work of the session.

4. Standard-setting activities: evolution of standards concerning the rights of indigenous people:

   (a) The concept of "indigenous peoples".

5. Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous people:

   (a) Land, environment and development;

   (b) Decision 1997/114 of the Commission on Human Rights on the "Study on indigenous land rights" and relevant working paper by the Special Rapporteur;

   (c) Health.

6. Consideration of the final report of the Special Rapporteur of the Subcommission on treaties, agreements and other constructive arrangements between States and indigenous populations.

7. International Decade of the World's Indigenous People:

   (a) Voluntary Fund for the International Decade of the World's Indigenous People;

   (b) Activities and report of the Advisory Group.

8. Consideration of a permanent forum for indigenous people.

9. Other matters:

   (a) Meetings and seminars;

   (b) Voluntary Fund for Indigenous Populations.

10. Adoption of the report of the Working Group on its fifteenth session.

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Sub-Commission on Prevention of
Discrimination and Protection
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Working Group on Indigenous Populations
Fifteenth session
28 July-1 August 1997
Item 4 of the provisional agenda

STANDARD-SETTING ACTIVITIES: EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLE

Supplementary working paper by the Chairperson-Rapporteur, Mrs. Erica-Irene A. Daes, on the concept of "indigenous peoples"

1. At its fourteenth session, Mrs. Erica-Irene Daes, the Chairperson-Rapporteur of the Working Group on Indigenous Populations, presented her working paper on the concept of "indigenous peoples" contained in document E/CN.4/Sub.2/AC.4/1996/2. The Working Group discussed the concept of "indigenous peoples", taking into account the views expressed by Governments, intergovernmental organizations, indigenous organizations and non-governmental organizations, and decided to continue its consideration of this matter at its fifteenth session. The Working Group recommended that the working paper of Mrs. Erica-Irene Daes be transmitted to Governments, intergovernmental organizations and indigenous organizations, together with a request for their comments prior to its fifteenth session.

2. In its resolution 1996/31, the Sub-Commission on Prevention of Discrimination and Protection of Minorities expressed its appreciation to the Chairperson-Rapporteur for the above-mentioned working paper and requested the Secretary-General to transmit the working paper in accordance with the recommendation of the Working Group. Moreover, it requested the Chairperson-Rapporteur to prepare a supplementary note on the concept of "indigenous peoples", taking into account any comments and relevant views she might receive.

3. The Chairperson-Rapporteur has not received any written comments or suggestions pertaining to her working paper. Some Governments, indigenous representatives and non-governmental organizations addressed the issue concerning the concept of "indigenous peoples" under the relevant agenda item of the fifty-third session of the Commission on Human Rights. However, the Chairperson-Rapporteur did not note any substantial changes compared with views expressed during the fourteenth session of the Working Group on Indigenous Populations.

4. The indigenous representatives present at the fourteenth session of the Working Group presented a joint resolution on the concept and definition of indigenous peoples, in which they categorically rejected the attempts to define indigenous peoples. The working definition pertaining to "indigenous peoples" in the report of Mr. José R. Martínez Cobo (E/CN.4/Sub.2/1986/7 and Add.1-4) was endorsed and said to be sufficient for identification of indigenous peoples. Moreover, the conclusions and recommendations of the Chairperson-Rapporteur, contained in her working paper E/CN.4/Sub.2/AC.4/1996/2, were acknowledged by indigenous representatives with gratitude and appreciation.

5. Many indigenous representatives also made individual statements in which they reiterated and endorsed the indigenous consensus statement, and said that it was neither desirable nor necessary to arrive at a universal definition of indigenous peoples. Moreover, many indigenous representatives pointed out that there was no definition of the terms "minorities" and "peoples" in international law, and that indigenous rights therefore also could be implemented without a specific definition of "indigenous peoples".

6. Some indigenous representatives also expressed the view that if an explicit definition of indigenous peoples were included in the draft United Nations declaration on the rights of indigenous peoples, it could be used to prevent some indigenous peoples from benefiting from the moral, political and legal impact of the declaration.

7. Many governmental representatives also stated that it is not necessary to arrive at a universal definition of indigenous peoples in the context of the draft United Nations declaration, although some Governments recognized the concerns of countries with complex ethnic and historical circumstances. However, those governmental representatives also said that the criteria of the Martínez Cobo report, the Chairperson-Rapporteur's note and ILO Convention No. 169 were adequate to determine whether a person or community are indigenous or not.

8. The governmental representatives of Bangladesh, India and Nigeria expressed the view that a definition of indigenous people was essential and that such a definition should therefore be developed. It was said that a definition of indigenous people was essential in order to enable efficient protection of the rights of indigenous peoples. Furthermore, it was said that it would be harmful to the truly indigenous peoples if the United Nations decided to continue addressing indigenous issues without having a definition of the actual beneficiaries of indigenous rights. Moreover, the representatives suggested, a clear-cut definition was necessary to identify the essential distinction between indigenous peoples and minorities.

9. In the working paper on the concept of "indigenous peoples", the Chairperson-Rapporteur underlined that no single definition can capture the diversity of indigenous peoples worldwide, and that it is not desirable or possible to arrive at a universal definition. The debate which has taken place between the fourteenth and fifteenth sessions of the Working Group has not made the Chairperson-Rapporteur change her fundamental opinion in this regard.

10. The Chairperson-Rapporteur is still of the opinion that the only solution, based on her knowledge and the experience of the Working Group, is to ensure that the development and implementation of the rights of indigenous peoples are carried out in a fair-minded and open process, so that there is room for the reasonable evolution and regional specificity of the concept of "indigenous" in practice.